IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

THURSDAY, THE 1ST FEBRUARY 2007 / 12TH MAGHA 1928

WP(C).No. 22366 of 2006(K)

PETITIONER:

RAJANKUTTY, HEADMASTER,
GOVT.L.P.SCHOOL, PERUMPUZHA, KOLLAM DISTRICT.

BY ADV. SRI.SUMAN CHAKRAVARTHY

RESPONDENTS:

1. **THE KERALA STATE FINANCIAL ENTERPRISES LIMITED, ANANDAVALLEESWARAM, KOLLAM, REP.BY ITS BRANCH MANAGER.**
2. **THE SPECIAL TAHSILDAR (RR), KERALA FINANCIAL CORPORATION, KOLLAM.**
3. **JESSY.K.JOHN, VINEETHA COTTAGE, KALLUVILA, PERAYAM, KOLLAM.**
4. **K.C.JOHN, VINEETHA COTTAGE, KALLUVILA, PERAYAM, KOLLAM.**
5. **PENNAMMA JOHN, VINEETHA COTTAGE, KALLUVILA, PERAYAM, KOLLAM.**
6. **SHAMSUDEEN.M., FORMER HIGH SCHOOL, M.V.GOVERNMENT HIGHER SECONDARY SCHOOL, PERAYAM, KOLLAM DISTRICT.**

BY ADV. SRI.RAJU JOSEPH, ADDL.SC.,KSFE LTD.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 01/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C) NO.22366/2006

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE ORDER DT.31.7.2006 IN NCL 557(SDT.KLM/2346/2001-02).

EXT.P1(a):- COPY OF THE ORDER DT.31.7.06 IN NCL 388 (SDT/KLM/2449/01-02)

EXT.P1(b):- COPY OF THE ORDER DT.31.7.06 IN NCL 464(SDT/KLM/2450/01-02).

EXT.P2:- COPY OF THE JUDGMENT IN WP(C) NO.32401/03 DT. 16.10.03.

EXT.P3:- COPY OF THE MEDICAL RECORDS PERTAINING TO THE WIFE OF THE PETITIONER SMT.LILLYKUTTY.

/TRUE COPY/.

tss

K.BALAKRISHNAN NAIR, J.

WP(C).No.22366 of 2006-K

Dated this the Ist day of February, 2007.

JUDGMENT

The petitioner was a surety in relation to 3 loans availed of by respondents 3 and 5 from the first respondent K.S.F.E. The principal loanees defaulted. Therefore, action was taken against the sureties including the petitioner. The petitioner feeling aggrieved by the recovery and also by the omissions of the K.S.F.E. to proceed against the other sureties had approached this Court by filing W.P.(C). 32401 of 2003. The said writ petition was disposed of directing to proceed against the principal loanees and also other sureties. Alleging that again recovery is made from his salary, this writ petition is filed.

2. The Standing Counsel for the K.S.F.E. submitted that the 4th respondent who is a surety was dismissed from service and that the 6th respondent, another surety has retired from service. That is why recovery is made from the salary of the petitioner.

3. As long as the petitioner is a surety, he cannot resist recovery from his salary till the liabilities of the loanees are cleared. Therefore, the writ petition fails, and it is dismissed. The petitioner will be free to move against the principal loanees to recover the amount

paid from his salary for their liability. The petitioner may bring to the notice of the second respondent if the recovery is made in violation of Section 60 C.P.C. read with Section ..... In that event, the second respondent shall take appropriate action and grant appropriate relief, if his grievance is found genuine.

The writ petition is disposed of as above.

K.BALAKRISHNAN NAIR,
MS JUDGE.